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August 12, 1988

Virginia Gibson-Mason, Esq.
Assistant U.S. Attorney
3310 U.S. Courthouse
601 Market Street
Philadelphia, Pennsylvania 19106

Re: Property Damage Litigation -- Pennsylvania
(U.S.A. v. Nicolet v. T&N)

Dear Ginny:

This letter is in response to your August 4 letter to me concerning the June 16 public hearing about the RI/FS. Your letter misrepresents the events of that evening, more accurately (albeit not quite perfectly) reflected in the transcript.

You suggest in your letter that my questions to the EPA representatives at the hearing somehow were unfair or inappropriate because this firm represents "a litigant against the agency." You fail to mention that you were the one who invited me to attend the meeting.

You suggest that my questions somehow were unfair or inappropriate because the EPA representatives did not have the benefit of counsel. Where were you? Where was Lydia Isaacs? Why did you invite Joel Schneider and me to attend the public hearing if not to ask questions?

According to the transcript, page 110, the EPA representatives requested a short recess to allow the court reporter a brief respite. Your letter, however, suggests incorrectly that the recess occurred because the EPA representatives "wished to discuss among themselves how to respond to [my] questions." Indeed, when the hearing resumed and the EPA representatives informed me that they had met among

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themselves and decided not to respond to my questions, I objected vehemently. Tr. at 110-11.

Your selective use of the transcript mischaracterizes the tenor of the public meeting. For example, you cleverly say that "[w]hen the break was over, Mr. Abreu-Cintrón . . . responded to each and every question you asked." In fact, when the break was over, Bruce Moholt, the EPA toxicologist, said "we really will not be able to answer your questions . . .," Tr. at 110, and that "we are saying on the record we will not entertain your questions at this time." Tr. at 111.

Only after continued objections was I permitted to ask any questions. Tr. at 111-13. Even then, I was interrupted by Mr. Bresnan, shortly after which Dr. Moholt just up and left. In that confrontational if not obstructionist atmosphere, there appeared to be no utility in persisting.

The transcript confirms my description of "a long, tumultuous public meeting." For the reasons set forth in this letter we do not see any reason to withdraw my June 23 letter from the docket.

Very truly yours,

Jon
Jon Schuyler Brooks

JSB:MM

cc: John P. Mason, Esq.
David E. Street, Esq.
Lydia Isales, Esq.
Joel Schneider, Esq.

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